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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER A. CHAPMAN and CHEE-ANN CHANG

Appeal 2009-006174
Application 10/733,129
Technology Center 2800

Decided: December 22, 2009

Before MAHSHID D. SAADAT, CARLA M. KRIVAK, and
CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-8 and 10-19. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is a wireless remote cooking thermometer system that includes a programmable thermometer timer system to ensure various types of meat are cooked according to established guidelines (Spec. ¶ [0010]). The thermometer timer unit has a visual display and keys for entering taste and choice preferences (Spec. ¶¶ [0010], [0012]). The user's selection is displayed on the display screen of the thermometer timer unit (Spec. ¶ [0012]). A remote monitoring unit includes a temperature probe inserted into meat being cooked for measuring the internal temperature of the meat (Spec. ¶ [0011]). The remote monitoring unit transmits temperature readings to the thermometer timing unit (Spec. ¶ [0011]) and displays the temperature of the meat and the time remaining until the meat is fully cooked in accordance with the selected taste preferences (Spec. ¶ [0012]).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A wireless remote cooking thermometer system, comprising:

a first hand-held unit positionable at a first location adjacent food being cooked, said first hand-held unit including a radio frequency transmitter operative to transmit internal temperature readings associated with the food being cooked;

said system including at least one microprocessor operative to calibrate a taste preference and a choice preference associated with the food being cooked;

a temperature sensor for measuring the internal temperature of the food being cooked having a probe and being connectable to said first hand-held unit; and

a second hand-held unit including a liquid crystal display (LCD) and a radio frequency receiver for reception of the internal temperature readings transmitted by said frequency transmitter of said first hand-held unit.

REFERENCES

Cooper	US 4,131,786	Dec. 26, 1978
Holling	US 5,378,874	Jan. 3, 1995
Heagle	US 5,939,974	Aug. 17, 1999
Tymkewicz	US 6,000,845	Dec. 14, 1999
Chung	US Des. 418,069	Dec. 28, 1999
Archard	US 6,065,391	May 23, 2000
May	US 6,080,972	Jun. 27, 2000

The Examiner rejected claims 1, 3-5, 8, 10, 12, 14, 15, and 19 under 35 U.S.C. § 103(a) based upon the teachings of Heagle and Tymkewicz.

The Examiner rejected claims 2 and 13 under 35 U.S.C. § 103(a) based upon the teachings of Heagle, Tymkewicz, and Chung.

The Examiner rejected claims 7, 11, and 17 under 35 U.S.C. § 103(a) based upon the teachings of Heagle, Tymkewicz, and Cooper.

The Examiner rejected claims 6 and 16 under 35 U.S.C. § 103(a) based upon the teachings of Heagle, Tymkewicz, May, and Holling.

The Examiner rejected claim 18 under 35 U.S.C. § 103(a) based upon the teachings of Heagle, Tymkewicz, and Archard.

Appellants contend Heagle does not teach two handheld units and Tymkewicz does not teach a microprocessor that calibrates a taste preference and a choice preference associated with a food being cooked (App. Br. 16; Reply Br. 2).

ISSUE

Did Appellants establish the Examiner erred in finding that the combination of Heagle and Tymkewicz teaches the employment of two hand-held units with a microprocessor for calibrating taste and choice preferences?

FINDINGS OF FACT

1. Heagle teaches a system for monitoring food service that includes a main computer 50 having appropriate peripherals and an interface unit 60 connected to a plurality of monitoring devices (Abstract; Fig. 2). One such interface is a hand-held unit 81 that can include hand-held thermometers 83, pagers 87, identification badges 89, and other instruments 91 (col. 17, ll. 31-39).

2. The CPU of Heagle can be either a multitasking Personal Computer (PC) or a dedicated microprocessor (col. 8, ll. 63-64).

3. Tymkewicz teaches a temperature sensor and indicating device where a visual indication of temperature sensed by a sensor is instantaneously displayed (col. 7, ll. 41-42). A user views the analog indication in relation to the indication of the appropriate cooking temperature for a food substance. The user then makes an immediate determination of the cooked status of the food substance. (Col. 7, ll. 55-59).

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). The Examiner bears the initial burden of presenting a

prima facie case of obviousness, and Appellants have the burden of presenting a rebuttal to the prima facie case. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

During examination of a patent application, a claim is given its broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted) (internal quotation marks omitted). “[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted).

ANALYSIS

Appellants argue that the combination of Heagle and Tymkewicz do not teach or suggest independent claims 1, 14, and 19 because Heagle does not teach two handheld units and Tymkewicz does not teach or suggest a microprocessor operative to calibrate taste and choice preferences. We agree.

The Examiner’s contention that Heagle’s CPU is the same as a hand-held unit is without merit (Ans. 4-5, 10). It is clear from a reading of Appellants’ Specification that a fair and reasonable interpretation of a “hand-held unit” in the appealed claims requires that the device is portable as it is capable of being clipped or fastened to the body of an operator (Spec. ¶ [0012]). Although Heagle teaches a CPU and a hand-held unit (FF 1), the CPU in Heagle is “the main control center with multi-tasking capabilities and is connected to an interface unit” (FF 2; col. 16, ll. 52-54). The CPU also includes a printer, printer monitor, reprogramming unit, key board,

mouse, modem, etc. (col. 16, ll. 54-57). Heagle discloses the hand-held unit can include a thermometer, pager, etc. (FF 1). Thus, not only does Heagle itself recognize a difference between the CPU and hand-held unit, there is no indication in Heagle that the CPU can be a hand-held unit.

Tymkewicz does not cure the deficiencies of Heagle. Further, Tymkewicz does not teach or suggest a microprocessor calibrating taste and choice preferences, as alleged by the Examiner (Ans. 5, 11). Rather, in Tymkewicz, the user determines whether the taste and choice preferences have been achieved by viewing a display and making a visual determination based upon the display (FF 3; App. Br. 13, 18; Reply Br. 3).

Thus, because the CPU in Heagle is not a hand-held unit and Tymkewicz does not use a microprocessor to calibrate taste and choice preferences as claimed, claims 1, 14, and 19 are not obvious over Heagle and Tymkewicz. Claims 2-8, 10-13, and 15-18, which depend from claims 1 and 14, are also not obvious over the collective teachings of Heagle and Tymkewicz, and the additionally cited references.

CONCLUSION

The Examiner erred in rejecting claims 1-8 and 10-19 under 35 U.S.C. § 103.

DECISION

The Examiner's decision rejecting claims 1-8 and 10-19 is reversed.

REVERSED

KIS

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